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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/844,963 | 04/27/2001 | James S. Mandle | D45701/000 | 1658 |

7590 07/21/2003

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EXAMINER

KRAMER, DEAN J

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3652

DATE MAILED: 07/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/844,963

Applicant(s)

MANDLE ET AL.

Examiner

Dean J. Kramer

Art Unit

3652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5-15-03 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 2, 4-10, and 12-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent # 711,452 in view of Shinn.

French Patent # 711452 shows several embodiments of holders for scouring devices each comprising a pair of opposed legs having gripping assemblies at their free ends. Some embodiments (see Figs. 3, 7, and 8) appear to show a one-piece holder having a natural resiliency with their opposing jaws biased toward an expanded position. The embodiment of Figure 6 shows outwardly oriented teeth (b,b') that are biased to an expanded position (see the dashed lines in Fig. 6) to grip a scouring pad. In this embodiment (Fig. 6), the teeth do not appear to move *in unison* to enter the scouring pad *at the same time* as is called for in the claims of the instant application.

However, Shinn shows a gripping tool wherein opposing gripping means (F,G) are biased outwardly after inward pressure on the legs (A,B) is released to grip an article.

Accordingly, it would have been obvious to a person having ordinary skill in the art at the time the invention was made to form the outwardly directed gripping means (b,b') of the French ('452) Figure 6 embodiment with a simple actuating means similar to the one-piece structures shown in Figures 3, 7, and 8 of the French ('452) patent and that shown and disclosed in the Shinn patent so that a user could easily control the release of a used scouring pad with only slight inward pressure on the resiliently coupled legs. Regarding claims 6 and 7, it is pointed out that the French ('452) Patent shows embodiments in Figures 1-3 having inwardly and outwardly oriented legs.

In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

4. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent # 711,452 in view of Shinn as applied to claim 1 above, and further in view of German Patent # 3530401.

The modified French ('452) patent was presented above in section 3 and would substantially show the invention as set forth in claim 3 except for the gripping means comprising a plurality of hooks.

However, German Patent # 3530401 shows an embodiment of a pad holder in Figures 1 and 5 comprising a plurality of hook-shaped gripping means (16,16') for engaging a pad (20).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the teeth of the modified French ('452) holder with hook-shaped gripping means as taught by the German ('401) patent as an alternative yet functionally equivalent means of securing a pad to the holder.

5. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over French Patent # 711,452 in view of Shinn as applied to claim 1 above, and further in view of Milano.


Milano shows a holding device operated by a user's finger comprising a pair of opposing legs each having a textured surface (62) for enhancing a user's grip.

It would have been obvious to a person having ordinary skill in the art to provide a textured grip enhancing surface on the outer surface of the modified French ('452) legs as taught by Milano so that a user could enjoy a more secure and comfortable grip on the holder.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dean J. Kramer whose telephone number is (703) 308-2181. The examiner can normally be reached on Mon., Tues., Thurs., Fri. (7:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis can be reached on (703) 308-1113. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.


Dean J. Kramer 7-17-03
Primary Examiner
Art Unit 3652

djk
July 17, 2003